

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 578  
By: Madla  
Business & Commerce  
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Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The provision of emergency communications service, or 9-1-1 service, is necessary for the protection of citizens of Texas. Currently, 9-1-1 service can be provided by the state, an emergency communication district, or a home-rule municipality. These entities are governed by different requirements for the provision of this service. C.S.S.B. 578 gives greater authority to the Commission on State Emergency Communications; eliminates the Councils of Government from the administration of database service for local 9-1-1; requires home-rule municipalities to form emergency communication districts; eliminates the ability of an entity to withdraw from the state plan; and creates an emergency call box program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the secretary of state in SECTION 31 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 771.001(3) and (7), Health and Safety Code, by defining “emergency communication district” and “public agency.”

SECTION 2. Amends Section 771.031(d), Health and Safety Code, to require the Advisory Commission on State Emergency Communications to include one member who is a member of the governing body of an emergency communications district formed under Section 772G, Health and Safety Code, and two members, rather than one, who serve on the governing body of a county, in addition to the other members of the committee. Deletes text that states that a home-rule municipality that operates a 9-1-1 system is independent of the state’s system. Deletes text regarding the member who serves on the governing body of a regional planning commission.

SECTION 3. Amends Section 771.051(a), Health and Safety Code, to provide that the Commission on State Emergency Communications (commission) is the state’s authority on emergency communications, and the commission is required to perform certain duties.

SECTION 4. Amends Section 771.052, Health and Safety Code, to require each public agency and regional planning commission to cooperate with the commission to the fullest extent possible in implementing and operating an effective and efficient locally based 9-1-1 system. Requires each public agency operating within the commission’s service area and regional planning commission to provide addressing and other database information that the commission considers necessary for the operation of a 9-1-1 system.

SECTION 5. Amends Section 771.055, Health and Safety Code, to require the commission, rather than each regional planning commission, to develop a plan, rather than a regional plan, for the establishment and operation of 9-1-1 service throughout the state, rather than region, that the commission services. Requires the state plan to be compiled from the detailed regional plans developed in coordination with the public agencies providing 9-1-1 services under this chapter. Requires the commission’s, rather than a regional, plan to be updated at least once every state fiscal

biennium and to include a description of how money allocated under this chapter is to be allocated in the commission's service area, rather than region. Deletes text regarding the requirement that the 9-1-1 service meet the standards established by the commission. Provides that in a region in which one or more cities and/or counties are providing 9-1-1 service under this chapter, these cities and counties are required to assist in the development of the state program. Makes conforming changes.

SECTION 6. Amends Sections 771.057 and 771.058, Health and Safety Code, as follows:

Sec. 771.057. AMENDMENT OF PLAN. Authorizes the state plan, in cases of emergency or natural disaster, to be amended at the regional or local level if requested by a public agency operating under this chapter. Requires the commission to determine the procedural process to be used in amending the state plan. Deletes text regarding home rule municipalities that operate a 9-1-1 system.

Sec. 771.058. OPTIONAL PARTICIPATION IN PLAN. Deletes text regarding the participation of a county or another public agency, in a county with a population of 120,000 or less, in the regional plan. Makes conforming changes.

SECTION 7. Amends Chapter 771C, Health and Safety Code, by adding Section 771.0585, as follows:

Sec. 771.0585. HOME-RULE MUNICIPALITIES. Requires a home-rule municipality that operates a 9-1-1 service, notwithstanding Section 771.058, independent of either the state system or an existing district authorized under Chapter 772 to follow the operational standards set out in Chapter 772G.

SECTION 8. Amends Section 771.060, Health and Safety Code, to make a conforming change.

SECTION 9. Amends Sections 771.062(c) and (d), Health and Safety Code, to require, rather than authorize voluntarily, an emergency communication district, rather than an emergency communication district or home-rule municipality, that operates a 9-1-1 system independent of the state system to submit strategic planning information to the commission not later than January 31 of each year that precedes a year that a regular session of the legislature is held for use in preparing the strategic plan for statewide 9-1-1 service. Requires, rather than authorizes, this information as determined by the commission to include certain information. Makes a conforming change.

SECTION 10. Amends Chapter 771C, Health and Safety Code, by adding Section 771.064, as follows:

Sec. 771.064. WITHDRAWAL FROM COMMISSION PLAN. Prohibits a public agency that participates in the commission's plan from withdrawing without the consent of the commission, except as provided by Section 771.058(d).

SECTION 11. Amends Section 771.071, Health and Safety Code, to delete text regarding the requirement that the commission distribute money to public agencies from the 9-1-1 services fee fund. Makes conforming changes.

SECTION 12. Amends Section 771.0711(g), Health and Safety Code, to delete language requiring an emergency services district of a home-rule municipality to reimburse the wireless service provider for services rendered.

SECTION 13. Amends Sections 771.072 (d) and (f), Health and Safety Code, to require the amount from the application of the surcharge at a rate of not more than .5 percent to be used by the commission as provided for in this chapter or be allocated to regions, rather than regional planning commissions, or other public agencies designated by the commission for use in carrying out the 9-1-1 service, rather

than regional plans, provided for by this chapter. Makes conforming changes.

SECTION 14. Amends Sections 771.074 and 771.075, Health and Safety Code, as follows:

Sec. 771.074. EXEMPTION. Prohibits a fee or surcharge authorized by this subchapter or Chapter 772 from being imposed on or collected from the state. Deletes reference to “a home rule municipality.”

Sec. 771.075. USE OF REVENUE. Authorizes fees and surcharges, except as provided by Section 771.072(e), 771.072(f), or 771.073(e) collected under this subchapter to be used, as approved by the commission, for planning, designing, developing, and providing 9-1-1 service, enhancing the effectiveness of 9-1-1 service, and providing facilities, equipment, and personnel necessary to establish and operate a public safety answering point and 9-1-1 system.

SECTION 15. Amends Section 771.078, Health and Safety Code, to require the commission to contract with public agencies for the provision of 9-1-1 service. Requires the commission by rule to adopt standard provisions for the contracts. Requires contracts under this section to provide for the commission to withhold disbursement to a local public agency that is the 9-1-1 service provider or wireless telecommunications carrier, rather than a regional planning commission, that does not follow a standard imposed by the contract, a commission rule, or a statute; and all funds, obligations, and contracts for 9-1-1 service are required to be transferred from the regional planning commissions to the commission. Deletes text regarding the requirement that the commission ensure that each regional planning commission receives certain amounts of money for 9-1-1 service, and the restriction and requirements placed on the money. Makes a conforming change.

SECTION 16. Amends Section 771.079(c), Health and Safety Code, to authorize money in the account to be appropriated only to the commission for planning, development, provision, or enhancement of the effectiveness of 9-1-1 service and for the implementation and operation of an emergency call box system, rather than regional planning commissions for 9-1-1 service.

SECTION 17. Amends Chapter 771, Health and Safety Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. EMERGENCY HIGHWAY CALL BOX SYSTEM

Sec. 771.101. EMERGENCY HIGHWAY CALL BOX SYSTEM. Requires the commission, in cooperation with the Texas Department of Transportation (TXDOT), to establish a program to install, operate, and maintain a system of telephone emergency call boxes in areas of the state served by the commission. Requires the emergency highway call box system to be installed, operated, and maintained along those highways in the state that are numbered United States highways, that are part of the national system of interstate and defense highways, or that are numbered state highways, to enable users of the emergency call boxes to communicate with providers of emergency services. Prohibits this section from applying to a segment of a highway that has been designated as a farm-to-market or ranch-to-market road. Requires the commission and TXDOT to phase in the implementation of call boxes over a ten year period. Authorizes the commission to take any action to implement the emergency call box program (program) that the commission determines to be necessary or advisable and to contract for any equipment or service that is required to implement the communication system under the program. Requires the commission to give priority for the implementation of an emergency highway call box system to counties with a population of 100,000 or less.

Sec. 771.102. SELECTION AND PLACEMENT. Requires the commission, in cooperation with TXDOT, to select or approve the emergency call boxes and other equipment and the communication provider services that are necessary for the system. Requires TXDOT to determine the placement and spacing of the emergency call boxes, which are to be no more than two miles apart from one another.

Sec. 771.103. COOPERATION. Requires each agency, county, and municipality in this state to cooperate with the commission in the establishment, operation, and maintenance of the emergency highway call box program.

Sec. 771.104. REPORTS. Requires the commission, not later than November 1 of each year, to file with the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board a report on the commission's activities under this subchapter during the preceding fiscal year.

Sec. 771.105. PROHIBITED FUNDING OPTIONS. Prohibits the establishment of an emergency highway call box system from being funded from constitutionally dedicated revenues allocated to TXDOT. Prohibits the emergency call box system from resulting in a fee increase or additional item on telephone service bills.

SECTION 18. Amends Section 772.110(d), Health and Safety Code, to require the district to implement, rather than recommend, minimum levels of service at least as stringent as commission levels of service, rather than standards, for a 9-1-1 system.

SECTION 19. Amends Section 772.114(c), Health and Safety Code, to prohibit the rate of the fee from exceeding six, rather than three, percent of the monthly base rate charged a service user by the principal service supplier in the participating jurisdiction.

SECTION 20. Amends Section 772.117, Health and Safety Code, to provide that allowable operating expenses of a district include all costs approved by the board attributable to planning, designing, developing, and providing 9-1-1 services, enhancing the effectiveness of a 9-1-1 system, and providing facilities, equipment, and personnel necessary to establish and operate a public safety answering point and 9-1-1 system, and for other related answering points, rather than answering points, that the board considers necessary.

SECTION 21. Amends Section 772.210(d), Health and Safety Code, to make conforming changes.

SECTION 22. Amends Section 772.217, Health and Safety Code, to make conforming changes.

SECTION 23. Amends Section 772.310(d), Health and Safety Code, to make conforming changes.

SECTION 24. Amends Section 772.317, Health and Safety Code, to make conforming changes.

SECTION 25. Amends Section 772.403(c), Health and Safety Code, to authorize the revenue from the fee to be used for planning, designing, developing, and providing 9-1-1 services enhancing the effectiveness, rather than development and provision, of 9-1-1 service, and providing facilities, equipment, and personnel necessary to establish and operate a public safety answering point and other related answering points.

SECTION 26. Amends Section 772, Health and Safety Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. HOME-RULE MUNICIPALITIES

Sec. 772.501. ESTABLISHMENT OF 9-1-1 SERVICE. Requires a home-rule municipality to provide 9-1-1 service to the jurisdiction through one or a combination of certain methods and features or equivalent state-of-the-art technology. Requires the municipality to design, implement, and operate a 9-1-1 system for the jurisdiction. Requires the municipality to implement minimum levels of service at least as stringent as commission levels of service for a 9-1-1 system. Requires a 9-1-1 system in a home-rule municipality under this subchapter to be computerized. Provides that 9-1-1 service is mandatory for each individual telephone subscriber within the municipality's jurisdiction and is not an optional service under any

definitions of terms relating to telephone service. Provides that a service supplier involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service supplier involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

Sec. 772.502. REPORTING OF EXPENSES. Requires the municipality, on January 31 of every year preceding a legislative session, to submit to the commission a detailed financial report showing all revenues and expenditures of the 9-1-1 Fund Account, and showing any balances of the account.

Sec. 772.503. ESTABLISHMENT OF 9-1-1 SERVICE FEE. Authorizes a municipality to impose a 9-1-1 emergency service fee on service users within the municipality's jurisdiction. Authorizes the municipality, in imposing the fee, to provide for reasonable reserves for contingencies and for purchases and installation of 9-1-1 emergency service equipment.

Sec. 772.504. COLLECTION OF FEE. Provides that each billed service user is liable for the fee imposed under Section 772.503 until the fee is paid to the service supplier. Requires the fee to be added to and stated separately in the service user's bill from the service supplier. Requires the service supplier to collect the fee at the same time as the service charge to the service user in accordance with the regular billing practice of the service supplier. Requires a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents to collect the 9-1-1 emergency service fee and transmit the fee monthly to the municipality.

Sec. 772.505. ESTABLISHMENT OF 9-1-1 FUND ACCOUNT. Requires a home-rule municipality operating its own emergency communications system to deposit all 9-1-1 fees collected or received by the municipality into a separate account to be known as the 9-1-1 Fund Account.

Sec. 772.506. ALLOWABLE EXPENSES. Provides that allowable expenses from the 9-1-1 fund include all costs attributable to planning, designing, developing, and providing 9-1-1 services and communication systems directly related to providing 9-1-1 services, enhancing the effectiveness of a 9-1-1 system, and providing facilities, equipment, and personnel necessary to establish and operate a public safety answering point and other related answering points.

SECTION 27. Repealer: Chapter 226 (Emergency Highway Call Box System), Transportation Code.

SECTION 28. Repealer: Section 771.056 (Submission of Regional Plan to Commission), Health and Safety Code.

SECTION 29. Requires a home-rule municipality, not later than January 1, 2002, to enter into a memorandum of understanding with the Commission on State Emergency Communications (CSEC) detailing the municipality's plan to comply with Section 771.0585, Health and Safety, as added by this Act. Requires a home-rule municipality, not later than January 1, 2003, to comply with Section 771.0585, Health and Safety Code, as added by this Act by completing certain tasks.

SECTION 30. Requires CSEC, not later than September 1, 2007, to implement wireless Phase II service to comply with Subdivision (15), Subsection (a), Section 771.051, Health and Safety Code, as added by this Act.

SECTION 31. (a) Provides that on September 1, 2001, all of the rights, powers duties, functions, program, and activities assigned to the Texas Department of Transportation (department) or to the

department's officers or employees by Chapter 226, Transportation Code, are transferred to CSEC; and all funds, obligations, contracts, property, and records of the department relating to the emergency call box system under Chapter 226, Transportation Code, are transferred to CSEC.

(b) Provides that a rule or form adopted by the department that relates to the emergency highway call box system under Chapter 226, Transportation Code, is a rule or form of CSEC and remains in effect until altered by CSEC. Authorizes the secretary of state to adopt rules as necessary to expedite the implementation of this subsection.

SECTION 32. Makes application of this Act prospective.

SECTION 33. Effective date: September 1, 2001, except that Sections 2, 12, and 14 of this Act take effect January 1, 2003.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1. Adds the definition of "public agency."

SECTION 2. Differs from As Filed version by increasing from one to two the number of advisory committee members who are members of the governing body of a county. Deletes text regarding a member who serves on the governing body of a regional planning commission.

SECTION 3. Differs from As Filed version by deleting text regarding the developing, examination, and approval or disapproval of regional plans. Adds text regarding the 9-1-1 service.

SECTION 4. Deletes proposed Section 771.055(e) and adds Section 711.052 regarding agency cooperation.

SECTION 5. Adds a new SECTION 5 regarding strategic planning for the establishment and operation of the 9-1-1 service. Adds text regarding the requirement that the state plan be compiled from detailed regional plans developed in coordination with the public agencies providing 9-1-1 services. Adds text regarding the development of the state program.

SECTION 6. Adds a new SECTION 6 regarding the amendment of a plan and the optional participation in a plan.

SECTION 7. Renumbers proposed SECTION 5 as SECTION 7 and deletes requirements regarding a home-rule municipality.

SECTION 8. Adds a new SECTION 8 regarding a business that provides residential telephone switches.

SECTION 9. Renumbers proposed SECTION 6 as SECTION 9 and adds text regarding a deadline for strategic planning information to be submitted to the commission.

SECTION 10. Renumbers proposed SECTION 7 as SECTION 10.

SECTION 11. Adds a new SECTION 11 regarding the imposition of 9-1-1 emergency service fees.

SECTION 12. Renumbers proposed SECTION 8 as SECTION 12.

SECTION 13. Adds a new SECTION 13 regarding the use of revenue received from the 9-1-1 service fee by the commission.

SECTION 14. Combines and renumbers proposed SECTION 9 and SECTION 10 as SECTION

14.

SECTION 15. Adds new SECTION 15 regarding contracts for 9-1-1 services.

SECTION 16. Adds new SECTION 16 regarding the appropriation of revenues from the imposed 9-1-1 service fee.

SECTION 17. Renumbers proposed SECTION 11 as SECTION 17 and amends existing text by making a reference to “telephone call boxes” as “emergency call boxes.” Adds Section 771.105 regarding the prohibition of funding the emergency highway call box system from money allocated to TXDOT.

SECTION 18. Renumbers proposed SECTION 12 as SECTION 18 and makes conforming changes.

SECTION 19. Adds new SECTION 19 regarding the maximum percentage rate of certain fees.

SECTION 20. Deletes proposed SECTION 20 and renumbers proposed SECTION 13 as SECTION 20.

SECTION 21. Renumbers proposed SECTION 14 as SECTION 21.

SECTION 22. Renumbers proposed SECTION 15 as SECTION 22.

SECTION 23. Renumbers proposed SECTION 16 as SECTION 23 and makes conforming changes.

SECTION 24. Renumbers proposed SECTION 17 as SECTION 24.

SECTION 25. Renumbers proposed SECTION 18 as SECTION 25.

SECTION 26. Deletes proposed SUBCHAPTER G and adds a new SUBCHAPTER G regarding the establishment of a 9-1-1 service, the reporting of reporting of expenses to the commission, the establishment of the 9-1-1 service fee, the collection of service fees, the establishment of a 9-1-1 fund account, and allowable expenses.

SECTION 27. Renumbers proposed SECTION 21 as SECTION 27.

SECTION 28. Adds a new SECTION regarding the repeal of Section 771.056, Health and Safety Code.

SECTION 29. Renumbers proposed SECTION 23 as SECTION 29.

SECTION 30. Renumbers proposed SECTION 24 as SECTION 30 and adds text regarding compliance with Subdivision (15), Subsection (a), Section 771.051, Health and Safety Code.

SECTION 31. Renumbers proposed SECTION 25 as SECTION 31 and makes references to the “commission” and “department” as the “Commission on State Emergency” and “Texas Department of Transportation,” respectively.

SECTION 32. Renumbers proposed SECTION 26 as SECTION 32.

SECTION 33. Renumbers proposed SECTION 27 as SECTION 33. Provides that Sections 2,12, and 14, rather than Sections 2, 4, 8, and 9, take effect January 1, 2003.

Makes nonsubstantive and conforming changes throughout the entire bill.

Deletes rulemaking authority from the As Filed version expressly granted to the board of managers of an emergency communications district and the governing body of a municipality.